HIGH COURT OF UTTARANCHAL AT NAINTAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

No. W.P. No. 314/05 (S/S)

Sanjeev Kumar

Vs

State of Uttaranchal through Secretary.

Approved for reporting.

Not approved for reporting

Date of decision: 13.5.2005

Initial of Judge

**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**
**W.P. NO.314 (S/S) OF 2005**

Sanjeev Kumar, aged about 28 years, son of Sri Naresh Kumar, posted as Health Visitor at District Tuberculosis Centre, Haldwani, District Nainital. .....Petitioner.

Versus

1. State of Uttaranchal, through Secretary, Medical and Health Services, Secretariat, Dehradun.
2. Director General, Medical Health and Family Welfare, Uttaranchal, Dehradun.
3. Department of Medical and Health Services, U.P., Lucknow through its Principal Secretary.

.....Respondents.

***Sri C.D. Bahuguna, learned counsel for the petitioner.***
***Learned standing counsel.***

**Dated: 13.05.2005**

**Hon'ble Rajesh Tandon, J.**

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondent no. 1 and 2 to relieve the petitioner for State of U.P. on the basis of option exercised by him for working in the State of U.P.

Briefly stated, in the year, 1997-98 in pursuance of the advertisement dated 10th August, 1998, applications were invited for appointment on the post of T.B. Health Visitor, Lab Technician, and B.C.G. Technician in the department of Medical & Health Services in the State of U.P. In pursuance of the order dated 23.02.2000 issued from the office of Director General, Medical & Health Services, U.P. Lucknow, the petitioner was appointed on the post of T.B. Health Visitor under the Chief Medical Officer, Nainital and was permitted to join at District Tuberculosis Centre, Haldwani, district Nainital.

On having required from the petitioner regarding the option, the petitioner has given his option on 4th October, 2000 for the State of U.P. as he was a resident of Moradabad.

Petitioner has submitted that on the basis of the option, the department of Medical & Health Services, Uttaranchal, Dehradun on 5th October, 2001 issued a combined list of those B.C.G. Technicians and T.B. Health Visitors who are entitled to be relieved for the State of U.P. The name of the petitioner is at Serial No. 2 in the list of T.B. Health Visitors as will appear from the perusal of the list dated 5th October, 2001.

Petitioner has submitted that similar option was also exercised by Sri Jitendra Uttam also and he has also filed a writ petition before this Court for relieving him to the State of U.P. and the order was passed directing the respondents to consider for relieving the petitioner. Subsequently following order was passed:-

*"An application has been filed by Mr. C.D. Bahuguna, learned counsel for the petitioner, 3wherein, it has been stated that 7 Lab Technicians of General Cadre have been relieved from the State of U.P. during the period 02.05.2003 to 03.07.2003; two Staff Nurses of General Cadre have also been relieved for the State of U.P. on 15.05.2002 and 17.10.2003 respectively and one Non-medical Supervisor of General Cadre has also been relieved in June-July, 2002 for the State of U.P. and lastly one Lab-Technician Mr. Nishant of General Cadre and similarly situated, has not been relieved for the State of U.P. as yet.*

*A counter affidavit has been filed in which it has been stated that prior to letter dated 22.07.2003 issued by the Director General Medical Health Services, U.P. Lucknow, few officials were relieved but later on the Director General,*

*Medical Health Services, U.P. Lucknow has issued directions to the effect that no official will be relieved without obtaining the approval from Reorganization Secretaries of both the State*

*If this was the plea, respondents should not have relieved any officer and if they have relieved the officers, the policy of pick and choose should not have been allowed. The officers should be relieved according to their seniority.*

*Therefore, this Court gives one more opportunity to the Principal Secretary, Medical Health & Family Welfare to relieve the petitioner within a month from today, failing which, he shall appear before this Court on 28th July, 2004."*

Petitioner has submitted that Sri Jitendra Uttam has already been relieved for the State of U.P., but the petitioner has not yet been relieved and I, therefore, direct the respondents to consider the case of the petitioner for relieving him for the State of U.P. within a period of 6 weeks from the filing of the certified copy of the order.

Subject to the aforesaid, the writ petition is disposed of finally at the admission stage.

(Rajesh Tandon, J.)

Dated: 13.05.2005

*Rathour*